

REMARKS

A. Introduction

Claims 1-8 were pending and under consideration in the application.

In the Final Office Action of July 20, 2009 claims 1 and 8 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 1, 6, and 8 were rejected under 35 U.S.C. §102(b), as being anticipated by *Atkinson*, et al., US Pub 2002/0073358 A1 (hereinafter, “*Atkinson*”).

Claim 7 was rejected under 35 U.S.C. §103(a), as being unpatentable over *Atkinson* in view of *Aasheim*, et al., U.S. 7,178,061, (hereinafter, “*Aasheim*”).

B. Rejections under 35 U.S.C. 112

Claims 1 and 8 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Office Action asserted that a feature recited in claim 1, “said boot program instructions comprising a plurality of pages of data, each said page being stored in parallel in at least two data blocks,” and a feature recited in claim 8, “said each page being stored in parallel in at least a first respective data block and a second respective data block,” are not disclosed in the specification.

The rejection is respectfully traversed.

The “burden of showing that the claimed invention is not described in the specification rests on the PTO in the first instance, and it is up to the PTO to give reasons why a description not in *ipsis verbis* is insufficient. *In re Wertheim*, 541 F.2d 257, 265, 191 USPQ 90, 98 (CCPA 1976). Here, the Office Action has provided no reasons why the disclosure in the specification is insufficient. As a result the Office Action failed to establish a *prima facie* case of non-compliance with 35 U.S.C. §112, first paragraph.

There is no requirement that terms in a claim be used in haec verba to satisfy the written description requirement of the first paragraph of 35 U.S.C. 112. Eiselstein v. Frank, 52 F.3d 1035, 1038, 34 USPQ2d 1467, 1470 (Fed. Cir. 1995). Applicants respectfully submit that the disclosure, at least, of Figure 3, and paragraph 0040. For example, paragraph 0040, referring to Fig. 3 states “a same boot program is stored in the leading four blocks” of a flash memory. Fig. 3 illustrates the parallel storage of multiple data blocks, where a single block may consist of multiple pages (e.g., 64 pages, as illustrated in Fig. 3).

Accordingly, withdrawal of the §112, first paragraph, rejection is respectfully requested.

C. Rejections under 35 U.S.C. 102(b)

Claims 1-6, and 8 were rejected under 35 U.S.C. §102(b), as being anticipated by *Atkinson*.

Atkinson discloses techniques whereby a computer system supports suspend operations to save power. The suspend operation maintains power to the system memory to enable a quick recovery from the suspend mode. To insure the accuracy of the data in system memory, a copy of the data is backed up to non-volatile memory, such as a hard disk drive, prior to entering the suspend mode. In addition, a signature value representing blocks or pages of memory also is saved with the data. When normal operation resumes, data in system memory is validated by calculating a new signature for each data block or page, and comparing it with the save signature values. If the signatures match, the data is assumed to be valid. If the values do not match, a restore operation proceeds to load the back up copy to that block of system memory. The error checking and restoration operations may be used during normal system operations to insure the integrity of data in the system memory or other volatile memory components. *Atkinson*, abstract.

Atkinson does not relate to boot program instructions, nor to storing boot program instructions in parallel in blocks of data-rewritable nonvolatile memory as recited in the

instant claims as previously presented. Rather, as summarized in the preceding paragraph, and described in more detail in *Atkinson*, Fig. 3 and paragraphs 0043-0045, *Atkinson* proposes that a computer system, upon being requested to enter a low-power “suspend to RAM” state, writes a copy of the content of system memory (stored in RAM) to a system hard disk, the content being divided into a number of pages, each page having a calculated signature (such as a checksum value or a cyclical redundancy check value) stored in DRAM, the hard disk, or static RAM. Upon start of a “resume” operation, a read of system memory is performed and the calculated signature of each page is compared to the stored signature for that page. Only when a signature does not match, is a corresponding page of memory in RAM replaced with a backup page stored on the hard disk. *Atkinson*, Fig. 3 and paragraphs 0043-0045.

The Office Action asserted that *Atkinson* discloses a semiconductor device and a data-rewritable nonvolatile memory, said data rewritable nonvolatile memory having a plurality of data blocks wherein boot program instructions are stored in parallel said boot program instructions comprising a plurality of pages of data, each said page being stored in parallel in at least two data blocks, said semiconductor device comprising a central processing unit (CPU) and a read control circuit (RCC), wherein: the CPU is configured, in part, to specify to the RCC a read position for reading out each page of the boot program instructions stored in the data rewritable nonvolatile memory at the starting time, said each page stored in parallel in at least a first respective data block and a second respective data block; and the RCC is configured to (a) determine whether the first respective data block is faulty or not according to data read out from the first respective block, (b) output the first data to the CPU if the block is determined as not faulty, and (c) read when the first respective data blocks is determined as faulty, second data from the second respective data block and output said second data to the CPU when said second respective data block is determined as not faulty.

The assertion is flawed, at least because, as noted above, *Atkinson* fails to teach or suggest storing boot program instructions in parallel in blocks of data-rewritable nonvolatile memory.

A finding that a claim is anticipated requires that “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because *Atkinson* fails to disclose at least the features of the claims discussed above, claims 1 and 8, and claims depending from claim 1, claims 2-7, are patentable over *Atkinson*.

D. Rejections under 35 U.S.C. 103(a)

Claim 7 was rejected under 35 U.S.C. §103(a), as being unpatentable over *Atkinson* in view of *Aasheim*.

Claim 7 depends from claim 1, and is patentable over *Atkinson* for the reasons given in Part C above. *Aasheim* is cited for disclosing a data-rewritable nonvolatile memory being a NAND type flash memory. Whether or not this is true, the disclosure fails to cure the deficiencies noted above.

As a result, Claim 7 is patentable over *Atkinson* in view of *Aasheim*.

E. Conclusion

In view of the foregoing, it is submitted that claims 1-8 are allowable and that the application is in condition for allowance. Early notice to that effect is respectfully requested.

If the Examiner believes that, for any reason, direct contact with Applicants’ attorney would help advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below, for purposes of arranging for a telephonic interview. Any communication initiated by this paragraph should be deemed an Applicant-Initiated Interview.

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Reply to the Final Office Action of July 20, 2009

If any further fees are required in connection with the filing of this amendment,
please charge the same to our Deposit Account No. 19-3140.

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